

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Michael R. Hoffmann,**  
Petitioner-Appellant,

v.

**Polk County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1150**  
**Parcel No. 291/00806-438-000**

On May 28, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Michael R. Hoffmann, requested that his appeal be considered without hearing and did not submitted evidence in addition to the certified record from the Board of Review protest. He was self-represented. The Board of Review designated Assistant County Attorneys, Ralph E. Marasco, Jr. and David Hibbard, as its legal representatives. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Michael R. Hoffmann, owner of property located at 12304 Wellington Ridge Drive, Clive, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story dwelling having 2149 total square feet of living area, and a 1056 square-foot unfinished basement. The property is also improved by an open porch and has 180 square feet of veneer. The dwelling was built in 1993 and has a 3+00 quality grade classification. It is situated on a 0.347 acre site. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$246,600, representing \$54,300 in land value and \$192,300 in dwelling value.

Hoffmann protested to the Board of Review on the ground the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); the property is assessed for more than authorized by law under section 441.37(b); there is an error in the assessment under section 441.37(1)(d); and there is a downward change in value under sections 441.37(1) and 441.35. The error claim was that the property was not assessed at market value and the downward change was based on lowered value caused by needed repairs to the deck and siding. These two claims essentially assert over-assessment. He requested a reduction in assessment to \$207,000. The Board of Review denied the protest stating, "The assessed value of this property was not changed because market data indicates that the property is assessed at its fair market value."

Hoffmann filed his appeal with this Board and urged equity, error and downward change in value. He also indicated in his statement the fair market value should be reduced because of economic conditions and needed deck and siding repairs. We note Hoffmann's claim of downward change in value in an assessment year is akin to a challenge on market value, a ground he pled before the Board of Review. *See Dedham Co-op Ass'n v. Carroll County Bd. of Review*, 206 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we consider his appeal on the grounds of equity and over-assessment.

Hoffmann submitted three 2008 sales to the Board of Review which he believed were comparable to his property and supported a reduction in his assessment. The dwellings are all two-story in the same area as his property and approximately close in size and grade. Two of the sites were larger than Hoffmann's lot and one was smaller. The unadjusted sale prices ranged from \$94.40 per square foot to \$108.67 per square foot, and a median of \$105.07 per square foot. Hoffmann's property is assessed at \$114.75 per square foot. Two of these properties sold for less than their assessed values and the other sale prices was close to the assessed value.

The Board of Review appraiser identified five sales of properties he deemed comparable to the subject property. One occurred in late 2007 and the other four occurred in 2008. The two-story



dwellings ranged from 1965 square feet to 2296 square feet, and were close in age, location, and grade to the subject. Adjusted sale prices ranged from \$100.20 per square foot to \$140.31 per square foot, and had a median of \$116.84.

Norman (Mike) Swaim of Swaim Appraisal Service, Inc., in West Des Moines, completed an appraisal of the property for the Board of Review. He completed an interior inspection on May 13, 2010. Swaim noted deferred maintenance causing water to leak in the garage and master bath, some rotting windows due to siding and window problems, siding in need of paint, and cracked concrete, although he considered the overall condition normal.

Swaim developed the sales approach to value concluding an opinion of \$225,000 as of January 1, 2009. Swaim reported there were eight 2008 sales in the immediate development of Wellington Ridge with a median gross living area of 2200 square feet and a median sale price of \$239,500. Swaim identified five two-story dwellings as comparable properties. He included a sale which closed in 2009, but was an active listing as of the assessment date. Swaim did not weigh the 2009 sale in his analysis, but included it to show a constant to slightly declining market at the end of 2008. These properties were of similar style, location, size, and built by the same builder. He adjusted for construction quality, condition, gross living area, basement finish, walkout or egress-window basement features, garage size, and other amenities. Gross adjustments ranged from 5.1% to 12.2%. Adjusted sale prices ranged from \$219,900 to \$246,300. His final opinion of value as of January 1, 2009, is \$225,000.

Reviewing all the evidence, we find a preponderance of evidence supports Hoffmann's contention his property is over- assessed. Therefore, we do not address the ground of equity. We find the Swaim appraisal is the most credible evidence of the fair market value on the January 1, 2009, assessment date.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between

assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

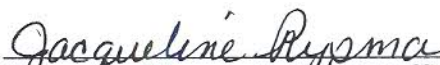
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

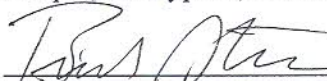
We find the Swaim opinion of value supports the claim the property is over-assessed. Further, we rely on his appraisal as the most credible evidence of the subject property's fair market value as of the assessment date.


Viewing the evidence as a whole, we determine that substantial evidence supports Hoffmann's claim of over-assessment as of January 1, 2009. We, therefore, modify the Hoffmann property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$225,000, representing \$54,300 in land value and \$170,700 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is modified to \$225,000, representing \$54,300 in land value and \$170,700 in dwelling value.

Dated this 10 day of June 2010.

  
Jacqueline Rypma, Presiding Officer

  
Richard Stradley, Board Member

  
Karen Oberman, Board Chair



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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-10</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Signature]</i></u>